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August 7, 2020

Hon. Loretta A. Preska
United States District Court
500 Pearl Street
New York, New York 10007

Mr. Green is hereby appointed to represent
Defendant Damone Gadsden in connection with his
motion for compassionate release, effective today.
SO ORDERED.

Loretta A. Preska

8/11/2020

re: USA v. Damone Gadsden, 06-cr-122 (LAP)

Dear Judge Preska:

This letter is an application to appoint undersigned counsel pursuant to the Criminal Justice Act (CJA) to provide further representation in the District Court of Damone Gadsden, for the purposes of evaluating a motion for compassionate release and, if appropriate, litigating such a motion. In connection therewith, we are also applying for a so-ordered subpoena for medical records of the defendant.

I had previously represented Damone Gadsden in the District Court in a 2010 resentencing and in a 2019 motion to reduce his sentence under the First Step Act. The First Step motion was denied by order dated September 13, 2019, an order which is the subject of a pending appeal before the United States Court of Appeals for the Second Circuit under appeal docket 19-3139. The appeal has been briefed but is not yet calendared for argument.

Mr. Gadsden is in custody at USP Lewisburg where, the BOP reports, there are now 46 active cases of inmates who have tested positive for COVID-19, as well as one staff member who is positive. <https://www.bop.gov/coronavirus/> As documented by his presentence report, Mr. Gadsden “is asthmatic and uses the inhaler pump on an as-needed basis.” (2007 PSR at ¶74). Asthma has been identified as a COVID-19 risk factor by The Centers for Disease Control and Prevention. I am advised by a close friend of Mr. Gadsden that he continues to suffer from asthma and uses an Albuterol inhaler.

Submitted herewith is a proposed subpoena duces tecum to the Warden of USP Lewisburg for Gadsden’s medical records. In the proposed subpoena I have included a provision permitting compliance with the subpoena by sending the records to my office.

Very truly yours,
/s/ Theodore S. Green
Theodore S. Green

cc: All counsel (by ECF)